IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 2063 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 30/08/2004 in WP NO : 15401 OF 2004 on the file of the High Court.)

Between:

Sampathi Brahmaiah, S/o.Late Sri venkaiah,
R/o.Korremula (V), Ghatkesar Mandal of R.R.District.

..... APPELLANT

AND

1 The Secretary, Department of Revenue, Governmetn of A.P. Secretariat, Hyderabad.
2 The District Collector, R.R.District at Hyderabad.
3 The Revenue Divisional officer, Rangareddy District East Division, Hyderabad.
4 The Mandal Revenue officer, Ghatkesar Mandal, of R.R.District.

.....RESPONDENT(S)

Counsel for the Appellant: MR.D.GOVARDHANACHARY

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Appeal is against the order of the learned single judge dated 30.8.2004 in Writ Petition No. 15401 of 200 dismissing the writ petition at the admission stage by a speaking order with the observations that the writ petition is nothing but speculative in nature and cannot be entertained.

We have heard the learned counsel for the parties.

In the writ petition challenge by the petitioner was to the order of respondent in cancelling pattas in Survey No. 867 vide common order in proceedings No. B/2057 to 61, 2183, 2184 and 3270/2000, dated 28.3.2002 of 3rd respondent and B1/296/2000, dated 19.4.2000 of the 4th respondent and making attempts to dispossess the appellant-petitioner from the land as illegal, arbitrary and unconstitutional.

In Proceedings dated 19.4.2000 of Mandal Revenue Officer, Ghatkesar Mandal,

though, reference was made to land in Survey No. 867 and name of the appellant's father was shown at Sl. No.55, but, there is no report in respect of the said Survey number and report was filed only with respect to Survey Nos. 870,853,872,871 and 873. No notice was issued to appellant.

Admittedly, no notice was issued to the appellant before passing the order of resumption. The learned single judge though proceeded to record the statement of the learned counsel for the appellant, but turned down the same on merits on the ground that the writ petition was speculative in nature. Learned single judge also observed that the claim of the appellant-petitioner that he is still in possession and not violated the conditions of the assignment was devoid of merits. But, to turn down such a petition as speculative and then to negative the claim of the appellant cannot be sustained. In our view, appellant ought to have been heard at least after claiming counter affidavit from the respondents as to the stand of the appellant.

The writ appeal is accordingly allowed. The impugned order of the learned single judge is set aside. The writ petition is directed to be heard and decided afresh by the learned single judge in accordance with law. Writ petition be posted before the learned single judge on 25.1.2005. Till then, status-quo shall continue to be maintained in respect of the land in question.

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DEVINDER GUPTA, CJ

Date: 28th December, 2004

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M. NARAYANA REDDY,J

Pnb

To

1 The Secretary, Department of Revenue, Governmetn of A.P.

Secretariat, Hyderabad.
2 The District Collector, R.R. District at Hyderabad.
3 The Revenue Divisional Officer, Ranga Reddy District East Division,

Hyderabad.
4 The Mandal Revenue officer, Ghatkesar Mandal, of R.R.District.

5 Two C.Cs. to the Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

6 Two C.D. copies